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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

10 SUNSET COMMERCIAL LLC, a Nevada
11 Limited Liability Company,

Case No. 2:23-CV-02081-GMN-BNW

12 Plaintiff,

13 vs.

14 BAYER CROPSCIENCE, INC., a New York
15 Corporation; MONTROSE CHEMICAL
16 CORPORATION OF CALIFORNIA, a
17 Delaware Corporation; ATLANTIC
18 RICHFIELD COMPANY, a Delaware
19 Corporation; OLIN CORPORATION, a
20 Virginia Corporation, TITANIUM METALS
21 CORPORATION, a Delaware Corporation;
22 NL INDUSTRIES, INC., a New Jersey
23 Corporation; LE PETOMANE XXVII, INC.,
24 an Illinois Corporation, in its representative
25 capacity as the NEVADA
26 ENVIRONMENTAL RESPONSE TRUST
27 TRUSTEE; and the UNITED STATES OF
28 AMERICA.

Defendants.

**MOTION TO EXTEND DEADLINE FOR
PARTIES TO FILE DISCOVERY PLAN
AND SCHEDULING ORDER**

(First Request)

Plaintiff Sunset Commercial LLC (“Sunset” or “Plaintiff”) by and through its counsel of record, and consistent with LR IA 6-1(a), hereby moves for this Court to extend the time within which the parties must file a Rule 26(f) Discovery Plan and Proposed Scheduling Order (the “Rule 26 Filing”) through and including **June 12, 2024**. Counsel for Sunset has attempted to communicate with counsel for all Defendants; Defendant United States of America (“USA”) and Defendant LE

1 Petomane XXVII, Inc., in its representative capacity as the Nevada Environmental Response Trust
 2 Trustee, have indicated they will not oppose this request.

3 This is the first requested extension of this deadline and is made in good faith and not for
 4 purposes of delay. *See* LR IA 6-1(a).

5 Sunset seeks to abide by this Court’s “Standing Order” filed on December 19, 2023 (Docket
 6 Entry No. 9), stating that “Judge Navarro will generally deny a stipulation or motion for a
 7 continuance or extension of time which lacks justification,” and that “[s]uch requests may be
 8 granted only in extraordinary circumstances if just cause is presented.” Sunset therefore identifies
 9 the following points of justification that show just cause exists for granting the Motion:

- 10 1. Sunset filed the instant Complaint against the eight (8) Defendants captioned above
 11 on December 14, 2023, seeking judgment against all Defendants for contribution
 12 damages “for response costs in accordance with CERCLA Section[] 107(a),” (*see*
 13 Complaint “Prayer for Relief” ¶ 1), meaning at least a portion of the Complaint’s
 14 allegations (and especially its first two Claims for Relief) necessitate proceeding
 15 against all Defendants together, rather than serially (*see* Compl. ¶¶ 154–78);
- 16 2. Since then, some but not all Defendants have made an appearance in this action;
- 17 3. On May 13, 2024, Defendant USA filed a Motion to Dismiss Amended Complaint
 18 (ECF No. 64), which Defendant Atlantic Richfield Company joined (ECF No. 65);
- 19 4. Given the piecemeal fashion in which appearances have been made and are
 20 continuing to be made, and to avoid prejudice to defendants that have not yet
 21 appeared, the parties have not yet conducted a Rule 26(f) conference as set forth in
 22 the Federal Rules of Civil Procedure, but intend to do so as soon as every named
 23 party has either appeared or been voluntarily dismissed;
- 24 5. The parties are actively discussing potential mediation and Sunset anticipates
 25 approaching the Court in the near future for additional scheduling adjustments to
 26 accommodate a mediation if an agreement can be reached;
- 27 6. Sunset believes it would be fair and most efficient to avoid prematurely filing a
 28 Discovery Plan and Proposed Scheduling Order that is not inclusive of all affected

1 parties, particularly since some of Plaintiff's claims are asserted against all
2 Defendants jointly;

3 7. Sunset will use the additional time to continue exploring the possibility of
4 mediation; and

5 8. Discovery has not yet commenced in this case and extending the deadline to submit
6 a Discovery Plan and Proposed Scheduling Order would not prejudice any other
7 party to this case, nor would it affect any other deadlines at this early stage in the
8 proceedings.

9
10 DATED: May 13, 2024.

11 PARSONS BEHLE & LATIMER

12 By: /s/ Richard J. Angell
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22 **IT IS SO ORDERED**

23 **DATED:** 5:08 pm, May 14, 2024

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25
26 **BRENDA WEKSLER**
27 **UNITED STATES MAGISTRATE JUDGE**

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the law firm of Parsons Behle & Latimer and that on the 13th day of May, 2024, I filed a true and correct copy of the foregoing document, **MOTION TO EXTEND DEADLINE FOR PARTIES TO FILE DISCOVERY PLAN AND SCHEDULING ORDER (FIRST REQUEST)**, with the Clerk through the Court's CM/ECF system, which sent electronic notification to all registered users as follows:

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